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In re Application of	:	
Golan et al.	:	
PCT No.: PCT/IL98/00354	:	DECISION ON PETITION
Appl. No.: 09/463726	:	
Int. Filing Date: 30 July 1998	:	TO WITHDRAW HOLDING
Priority Date: 01 August 1997	:	
Attorney's Docket No.: 2111-11	:	OF ABANDONMENT
For: Adhesive Composition for	:	
Electrical PTC Heating Device	:	

This is in response to the "Petition/Request for Withdrawal of Erroneous Notification of Abandonment" filed on 27 March 2000.

**BACKGROUND**

Applicants filed this international application on 30 July 1998, claiming a priority date of 01 August 1997. The United States was designated, and the International Bureau transmitted a copy of the published international application to this Office on 11 February 1999. A Demand electing the United States was filed on 24 February 1999, which was prior to the elapse of 19 months from the priority date. Accordingly, the time period for payment of the basic national fee in the United States expired as of midnight on 01 February 2000.

The International Bureau (IB) transmitted a Notification of Election (Form PCT/IB/331) to the United States Patent and Trademark Office (US PTO) on 23 December 1999. The Notification indicated that a Demand electing the United States had been filed on 05 November 1999, which was later than the elapse of 19 months from the priority date.

Applicant submitted a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" on 31 January 2000. The Transmittal Letter was accompanied by, *inter alia*, a copy of an International Search Report (Form PCT/ISA/210) completed by the US PTO, a copy of the international application, a basic national fee in the amount of \$48.00

and a surcharge under 37 CFR 1.492(e) in the amount of \$65.00. The Transmittal Letter also included an authorization to charge additional fees to a deposit account.

The IB transmitted a second Notification of Election (Form PCT/IB/331), stamped "Corrected Version," to the United States Patent and Trademark Office (US PTO) on 01 March 2000. This Notification indicated that a Demand electing the United States had been filed on 24 February 1999, which was prior to the elapse of 19 months from the priority date.

On 17 March 2000, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the United States for failure to pay the full U.S. basic national fee by 20 months from the priority date. The Notification further indicated that "The election was not made before the expiration of 19 months from the priority date."

Applicants filed the instant petition on 27 March 2000. The petition requests the withdrawal of the holding of abandonment on the basis that the United States had been elected prior to 19 months from the priority date, and that accordingly the payment of the basic national fee on 31 January 2000 was timely.

### **DISCUSSION**

Review of the record reveals that, according to the "Corrected Version" of the Notification of Election transmitted to this Office by the IB on 01 March 2000, the United States in fact was elected in a Demand filed before the elapse of 19 months from the priority date. As such, the last day for payment of the basic national fee in the United States was 01 February 2000.

Inspection of the record also reveals that, on 31 January 2000, petitioner paid a \$48.00 small entity basic national fee which is appropriate where the US PTO was the International Preliminary Examining Authority (IPEA) and where all claims were found to be in compliance with PCT Article 33(1)-(4). However, at that time, no International Preliminary Examination Report (IPER) had been issued. Accordingly, applicant was not entitled to pay the reduced fee under 37 CFR 1.492(a)(f). The Transmittal Letter of 31 January 2000 included an authorization to charge any additional fees to a deposit account. **Accordingly, Deposit Account 14-1140 is being charged in the amount of \$332.00 (fee code 959) to cover the balance of the correct basic national fee.**

Based on the evidence described *supra*, it is concluded that petitioner timely paid the basic national fee in the United States. Accordingly, the Notification of Abandonment (Form PCT/DO/EO/909) of 17 March 2000 was mailed in error and is hereby **VACATED**.

**DECISION**

For the reasons explained above, the petition is **GRANTED**.

This application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing.



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